

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GREG COULSTON

VS.

WAL-MART STORES TEXAS, L.L.C.

CIVIL ACTION NO.: 5:20-CV-01443

DEMAND FOR JURY TRIAL

NOTICE OF REMOVAL TO THE PLAINTIFF

TO: Greg Coulston, by and through his attorney of record:

Steven T. Nguyen
Thomas J. Henry Injury Attorneys
P.O. Box 696025
San Antonio, Texas 78269
snguyen-svc@thomasjhenrylaw.com

Please take notice that the civil action in which Greg Coulston is named as a Plaintiff, brought in Cause No. 20-581 in the 451st Judicial District Court of Kendall County, Texas, bearing the style *Greg Coulston v. Wal-Mart Stores Texas, LLC* has been removed from that Court to the United States District Court for the Western District of Texas, San Antonio Division, effective the 18th day of December, 2020. On this day, a Notice of Removal, a copy of which is attached and hereby marked as Exhibit "A" and incorporated herein by reference, was filed with the Clerk of the United States District Court, and a copy of the Notice of Removal has been filed with the Clerk of the State Court, effecting removal pursuant to 28 U.S.C. § 1446.

Respectfully Submitted,

**THORNTON BIECHLIN
REYNOLDS & GUERRA, L.C.**

100 N.E. Loop 410, Suite 500

San Antonio, TX 78216

Telephone: (210) 342-5555

Facsimile: (210) 525-0666

Email: mstrauss@thorntonfirm.com
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BY /s/ Mary M. Strauss

Mary M. Strauss

State Bar No. 24008099

Kyle P. Pantuso

State Bar No. 24093664

ATTORNEY FOR DEFENDANT

WAL-MART STORES TEXAS, LLC

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument has been properly delivered pursuant to the Federal Rules of Civil Procedure on December 21, 2020 to the following counsel of record:

Steven T. Nguyen
Thomas J. Henry Injury Attorneys
P.O. Box 696025
San Antonio, Texas 78269
snguyen-svc@thomasjhenrylaw.com
Attorneys for Plaintiff

/s/ Mary M. Strauss

Mary M. Strauss

NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
EXHIBIT “A”

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GREG COULSTON

VS.

WAL-MART STORES TEXAS, L.L.C.

CIVIL ACTION NO.: 5:20-CV-1443

DEMAND FOR JURY TRIAL

ORIGINAL NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW Defendant, **Wal-Mart Stores Texas, LLC**, and pursuant to 28 U.S.C. §1446(a) and §1441(b), files this Original Notice of Removal of the present cause from the 451st Judicial District Court of Kendall County, Texas, in which it is now pending, to the United States District Court for the Western District of Texas, San Antonio Division, and in support thereof would respectfully show the following:

1. Defendant, **Wal-Mart Stores Texas, LLC**, is the sole Defendant, and Greg Coulston is the sole Plaintiff in a lawsuit commenced in the 451st Judicial District Court of Kendall County, Texas, Cause Number 20-581.

2. Plaintiff's Original Petition was filed on November 11, 2020, in 451st Judicial District Court of Kendall County, Texas, bearing the style *Greg Coulston v. Wal-Mart Stores Texas, LLC* and the Cause Number 20-581. A true and correct copy of all process and pleadings in the State cause, including the docket sheet, were attached to and made part of the Index of Exhibits filed contemporaneously.

3. Plaintiff served his Original Petition upon Defendant **Wal-Mart Stores Texas, LLC** via process server on November 25, 2020, through registered agent, CT Corporation. An

answer, in the form of a general denial, was filed in the State court action on behalf of Defendant **Wal-Mart Stores Texas, LLC**.

4. Defendant **Wal-Mart Stores Texas, LLC** is a Delaware limited liability company organized and existing under the laws of the State of Delaware. Its principal place of business is 702 SW 8th Street, Bentonville, Arkansas, 72716-6209.

5. According to the lawsuit, Plaintiff is an individual residing in Kendall County, Texas.

6. No change in the State of formation, organization, incorporation, or the principal place of business of Defendant **Wal-Mart Stores Texas, LLC**, or its respective member, has occurred since the commencement of the lawsuit, and Defendant **Wal-Mart Stores Texas, LLC** knows of no such change in the citizenship of the Plaintiff.

7. The lawsuit is a civil action arising from a dispute pertaining to a slip and fall at a Wal-Mart store located in Boerne, Kendall County, Texas. The claims made include theories of premises liability, negligence, and vicarious liability.

8. By this lawsuit, Plaintiff seeks actual damages over \$200,000.00 but not more than \$1,000,000.

9. The amount in controversy exceeds \$75,000.00.

10. The lawsuit is within the Federal Court's original jurisdiction pursuant to 28 U.S.C. §1332, by reason of the diversity of citizenship of the parties and the amount of controversy.

11. This lawsuit is properly removed to the United States District Court, for the Western District of Texas, San Antonio Division, pursuant to 28 U. S. C. § 1441 and 28 U.S.C. §1446

12. The Original Notice of Removal is timely filed in accordance with 28 U.S.C. §1332(a) and §1441(b), because it is filed within thirty (30) days of the date of Defendant's receipt of the summons and initial pleading and determined the case was removable.

13. Defendant requests a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant **Wal-Mart Stores Texas, LLC** prays that this action be removed from the 451st Judicial District Court of Kendall County, Texas, Cause No. 20-581, to the United States District Court, Western District of Texas, San Antonio Division; that this Court assume jurisdiction of this action; and henceforth, that this action be placed on the docket of this Court for further proceedings, the same as though this action had originally been instituted in this Court.

Respectfully Submitted,

THORNTON BIECHLIN
REYNOLDS & GUERRA, L.C.
100 N.E. Loop 410, Suite 500
San Antonio, TX 78216
Telephone: (210) 342-5555
Facsimile: (210) 525-0666
Email: mstrauss@thorntonfirm.com
kpantuso@thorntonfirm.com

BY /s/ Mary M. Strauss
Mary M. Strauss
State Bar No. 24008099
Kyle P. Pantuso
State Bar No. 24093664
ATTORNEY FOR DEFENDANT
WAL-MART STORES TEXAS, LLC

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument has been properly delivered pursuant to the Federal Rules of Civil Procedure on December 21, 2020 to the following counsel of record:

Steven T. Nguyen
Thomas J. Henry Injury Attorneys
P.O. Box 696025
San Antonio, Texas 78269
snguyen-svc@thomasjhenrylaw.com
Attorneys for Plaintiff

_____/s/ Mary M. Strauss_____
Mary M. Strauss

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Greg Coulston

(b) County of Residence of First Listed Plaintiff Kendall
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Steven T. Nguyen, Thomas J. Henry Injury Attorneys,
P.O. Box 696025, San Antonio, TX 78269, 210/656-1000

DEFENDANTS

Wal-Mart Stores Texas, LLC

County of Residence of First Listed Defendant Benton, AK
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Mary M. Strauss, Thornton Biechlin Reynolds & Guerra,
100 NE Loop 410, #500, San Antonio, TX 78216,

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §1446(a) and §1441(b)
Brief description of cause:
Premises Liability

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
over \$200,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

12-21-2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ Mary M. Strauss

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.